



NEW MEXICO
COURT MONITORING PROJECT
Year Two Report
July 2017-July 2018

Funding for this project made possible by New Mexico Department of Transportation, Traffic Safety

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NEW MEXICO DWI COURT MONITORING PROJECT

Year Two Report- July 2017 through July 2018

Prepared by: Mothers Against Drunk Driving

INTRODUCTION

Mothers Against Drunk Driving has a longstanding history of leading the fight to eliminate drunk and drugged driving. MADD's Court Monitoring Program has become widespread with its implementation in several states throughout the country. The goals of the program are threefold:

1. To compile pertinent information on how DWI cases are handled in the courtroom.
2. To elicit public interest in the management and outcome of DWI cases in the community by publishing annual findings locally and contributing to an annual report released by MADD National.
3. To report relevant information gathered by the project to appropriate entities in an effort to increase the efficiency of the judicial process.

New Mexico DWI Court Monitoring Project began in July of 2016 and reports in six New Mexico counties: Bernalillo, Doña Ana, McKinley, Rio Arriba, San Juan, and Santa Fe. The project is funded through a contract with the New Mexico Department of Transportation. The five court monitors spent an average of 12 days in court per month, monitoring a total of 2,266 cases in the July 2017-July 2018 reporting dates. Of the total cases monitored, 1,613 were adjudicated and included in this Year Two Report.

MADD shares bi-weekly data reports with NMDOT. A total of 24 reports were given to NMDOT that included the sanctions, prior DWI's, and dispositions of the cases that were adjudicated in the previous two week period. These reports also included a list of accrued adjudicated cases to date.

In the past year, MADD Representatives met with the New Mexico Department of Transportation three times regarding the New Mexico DWI Court Monitoring Program and also attended five NM DWI events. The court monitors participated in four training seminars in the past year and attended twelve monthly meetings conducted by the project supervisor.

The annual disposition statistics for 2017, as published by the Administrative Office of the Courts (AOC), are also listed for each corresponding county to capture the accurate annual disposition percentages as compared to the sample pool the project monitored.

Also included in each county summary is a chart detailing the different dismissal reasons for the monitored cases. The monitors derived this information from meeting with District Attorneys' Offices, being present in court during the time of the dismissal, viewing court files, and reviewing their notes to determine reasons that led to the dismissal.

METHOD

The Court Monitors monitored misdemeanor DWI cases in the Magistrate courts of their respective counties. To determine which cases were monitored, the monitors randomly chose DWI cases each week from the DWI docket of the courthouse they were monitoring. They were physically present for court settings and acquire case information from courtroom observation and, when necessary, from researching online databases in the event a monitor was not able to be present at the proceeding. The data was then entered into the MADD National Court Monitoring Database for reporting purposes.

This report is designed to present observations and trends relative to the six counties monitored, and are not intended to be a statistical analysis.

YEAR TWO DATA SUMMARY

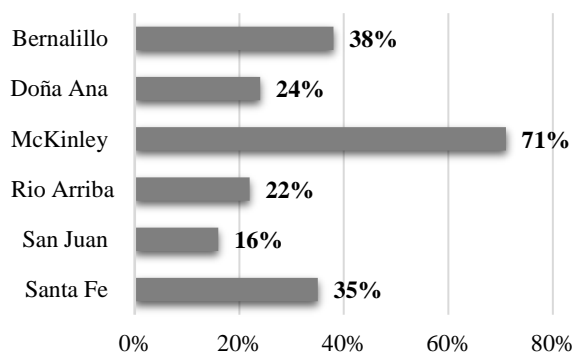
JULY 2017-JULY 2018

	-Actual	-Total %
Total Cases Monitored	2,266	-
Total Adjudicated	1,613	71%
Total Guilty	543	34%
Total Not Guilty	35	2%
Total Deferred Prosecution ²	390	24%
Total Dismissed	597	37%
Total Amended ³	48	3%

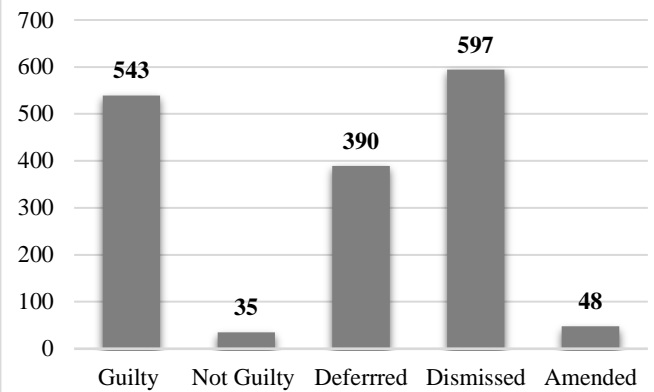
Top 3 Reasons for Dismissal

	# of Cases	Total Dismissal Percentage
Insufficient Discovery	130	22%
Officer Failures to Appear	90	15%
Hold Open Pleas	63	11%

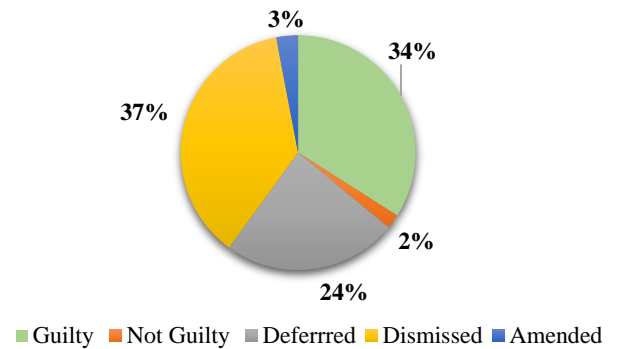
Dismissal Rate Comparison



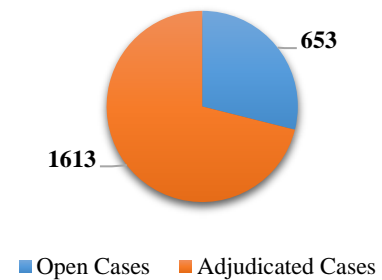
Overall Disposition Detail



Overall Disposition Percentages



Total Number of Open & Adjudicated Cases

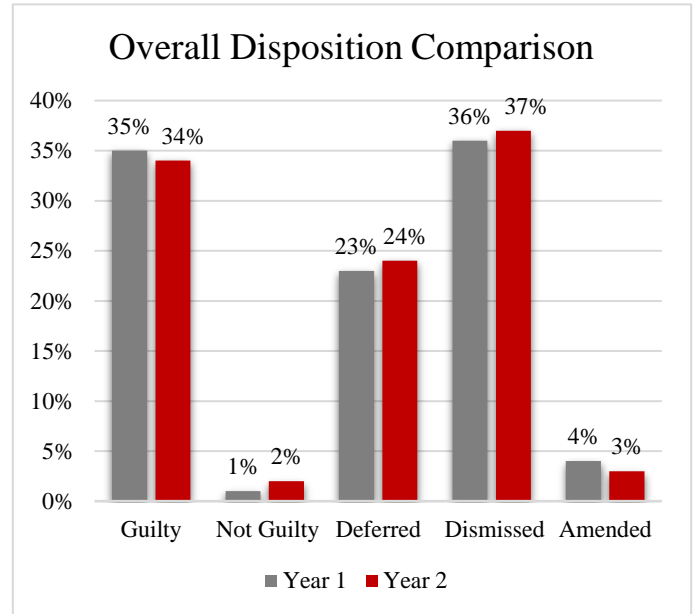


COMPREHENSIVE DATA SUMMARY

JULY 2016-JULY 2018

COMPARATIVE VIEW: OVERALL DISPOSITIONS

	Year 1	Year 1 %	Year 2	Year 2 %
Total Cases Monitored	1,721	-	2,266	-
Total Adjudicated	1,106	64%	1,613	71%
Total Guilty	392	35%	543	34%
Total Not Guilty	16	1%	35	2%
Total Deferred Prosecution	257	23%	390	24%
Total Dismissed	400	36%	597	37%
Total Amended	41	4%	48	3%



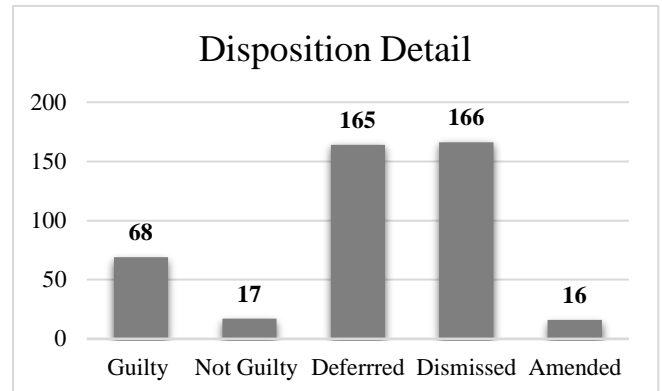
COMPARATIVE VIEW: DISPOSITION PERCENTAGES BY COUNTY

	Bernalillo		Doña Ana		McKinley		Rio Arriba		San Juan		Santa Fe	
	Year 1	Year 2	Year 1	Year 2	Year 1	Year 2	Year 1	Year 2	Year 1	Year 2	Year 1	Year 2
Adjudicated Cases	195	432	209	343	246	306	88	105	189	208	179	219
Guilty	12%	16%	26%	30%	32%	19%	43%	59%	70%	76%	37%	44%
Not Guilty	3%	4%	2%	1%	1%	2%	0%	3%	2%	2%	1%	1%
Deferred Prosecution	34%	38%	44%	42%	18%	8%	17%	10%	2%	4%	20%	18%
Dismissed	45%	38%	28%	24%	48%	71%	18%	22%	26%	16%	39%	35%
Amended	6%	4%	0%	4%	2%	1%	22%	7%	1%	2%	3%	2%

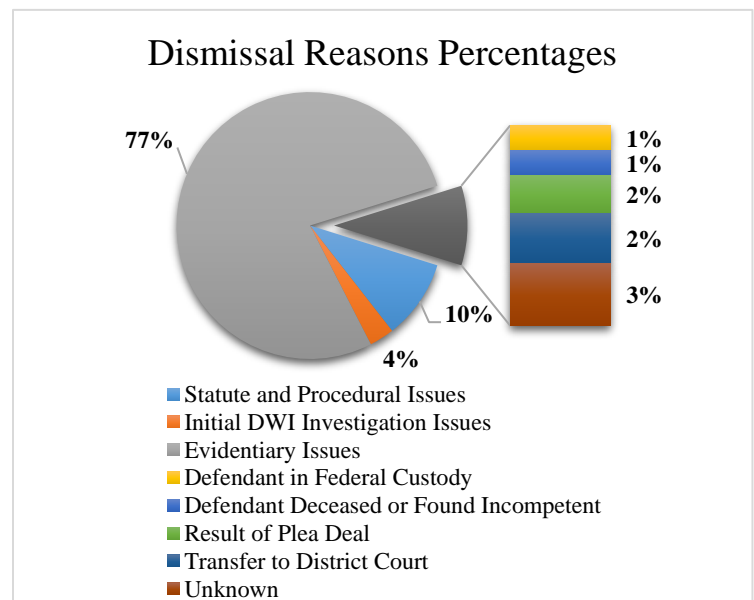
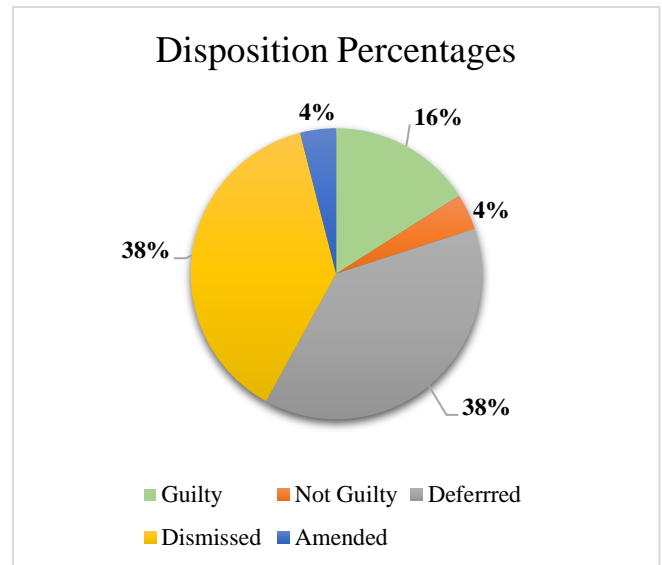
BERNALILLO COUNTY

July 2017-July 2018

	-Actual	-Total %	-AOC %
Cases Monitored	824	-	-
Adjudicated	432	-	2,628
Guilty	68	16%	49.1%
Not Guilty	17	4%	2.1%
Guilty-First Offender Track	165	38%	-
Dismissed	166	38%	48.9%
Amended	16	4%	-



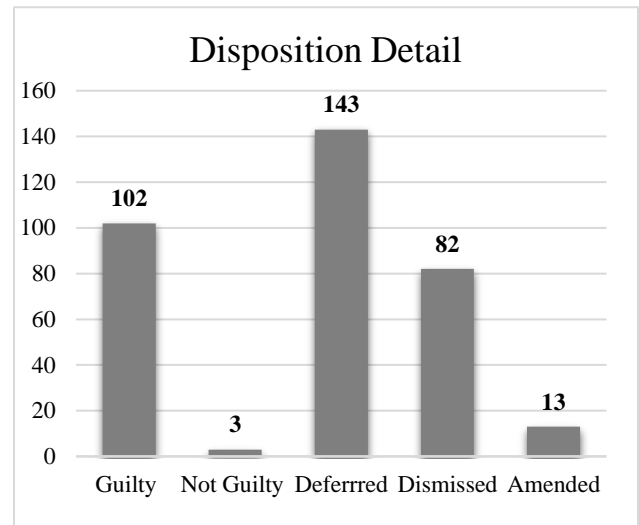
Reasons for Dismissal Detail	
Statute and Procedural Issues	16
30-Day Rule (See Rule 7-504 NMRA) ⁴	11
6-Month Rule (See Rule 6-506(B) NMRA) ⁵	2
Insufficient Complaint	1
Insufficient Citation	1
Failure to File Response to Motion	1
Initial DWI Investigation Issues	6
Failure to Establish Proper Deprivation Period	1
Probable Cause	4
Proof of Defendant Driving	1
Evidentiary Issues	128
Missing Pre-Trial Interview	10
Officer Failure to Appear Trial or PTI-Unspecified	24
Officer FTA Motion Hearing	2
Officer FTA PTI	11
Officer FTA Trial	15
Officer FTA both Trial & PTI	6
Officer Failure to Appear Due to FMLA, Training, Illness ⁶	8
Officer No Longer with Agency	3
Officer on Leave	2
Suppression/Exclusion of Blood Test	1
Missing Breath Card	1
Civilian Witness FTA	6
Suppression/Exclusion of Officer Testimony	3
Insufficient Evidence	34
Pending Further Investigation	2
Defendant in Federal Custody	2
Defendant Deceased or Found Incompetent	2
Result of Plea Deal	3
Transfer to District Court	4
Unknown	5



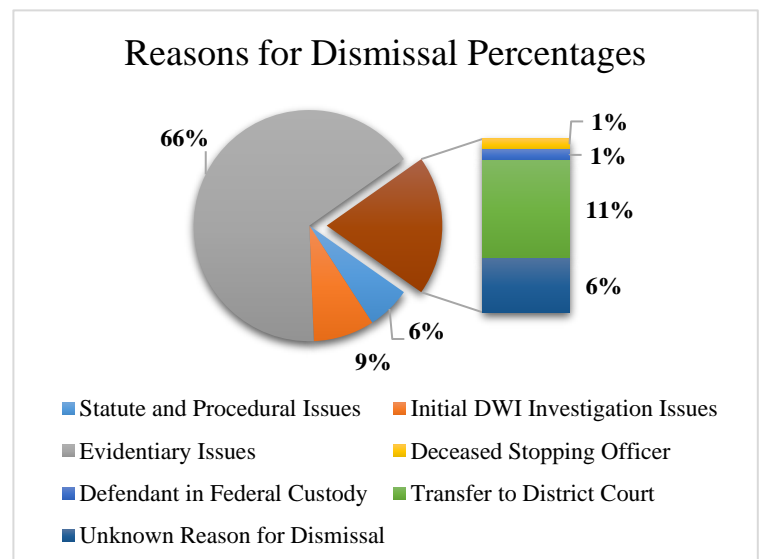
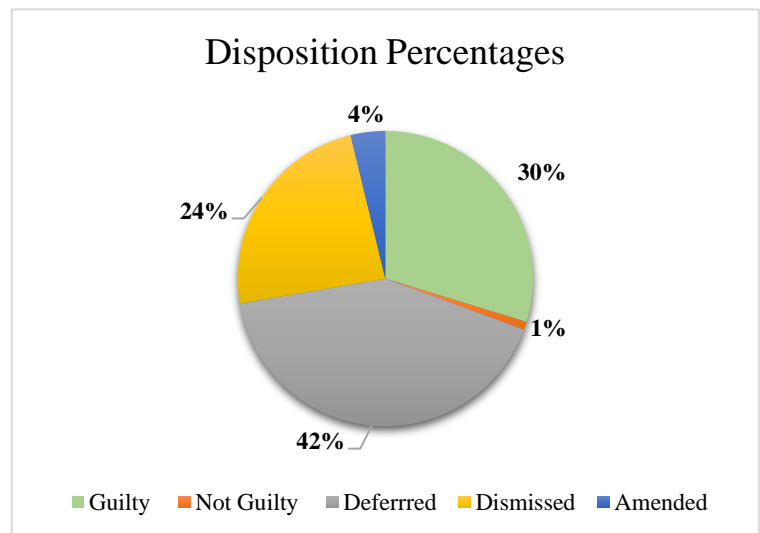
DOÑA ANA COUNTY

July 2017-July 2018

	-Actual	-Total %	-AOC %
Cases Monitored	386	-	-
Adjudicated	343	-	1104
Guilty	102	30%	77%
Not Guilty	3	1%	0.7%
Deferred Prosecution	143	42%	-
Dismissed	82	24%	22.2%
Amended	13	4%	-



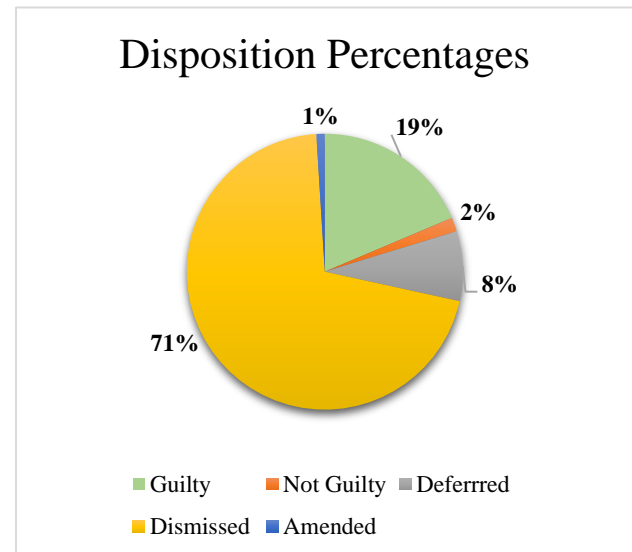
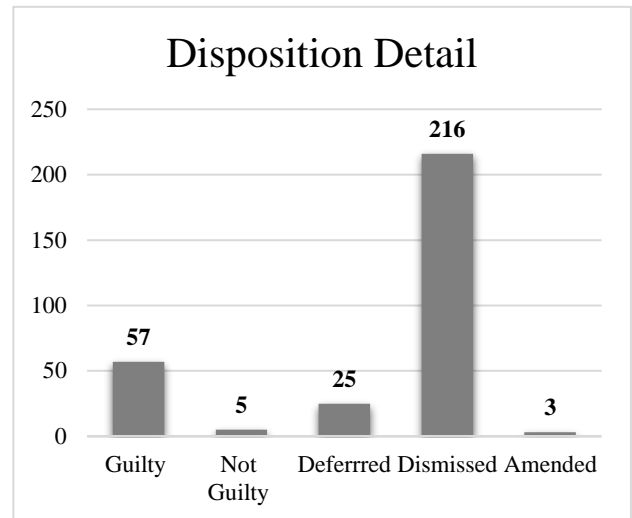
Reasons for Dismissal Detail	
Statute and Procedural Issues	5
6 Month Rule	3
Refusal to Issue Bench Warrant	1
Motion for Time Extension Denied	1
Initial DWI Investigation Issues	7
Unlawful Traffic Stop	2
Implied Consent	1
Lack of Reasonable Suspicion	1
Probable Cause	3
Evidentiary Issues	54
BAC Below .08	10
Officer No Longer with Agency	1
Blood Test	5
Suppression/Exclusion of Witness Testimony	5
Insufficient Evidence	22
Officer Failure to Appear	4
Officer Failure to Appear PTI	5
Missing PTI	2
Deceased Stopping Officer	1
Defendant in Federal Custody	1
Transfer to District Court	9
Unknown Reason for Dismissal	5



McKINLEY COUNTY

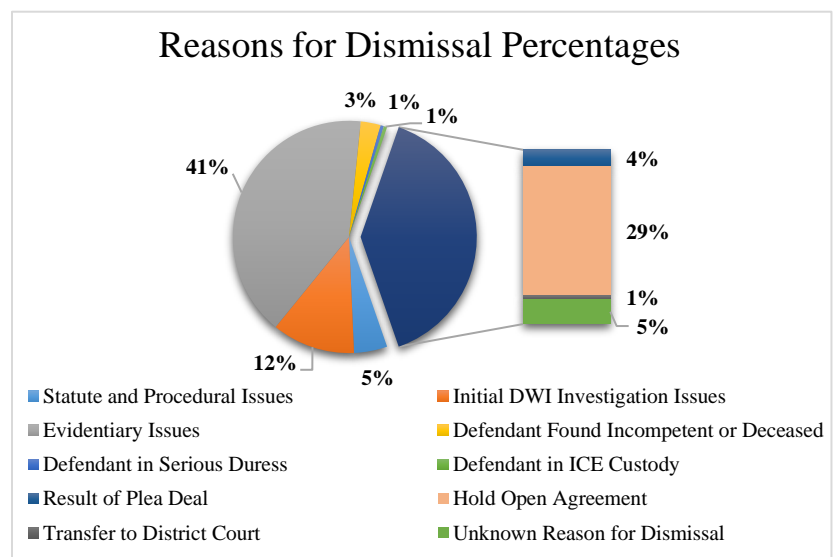
July 2017-July 2018

	-Actual	-Total %	-AOC %
Cases Monitored	365	-	-
Adjudicated	306	-	618
Guilty	57	19%	45.3%
Not Guilty	5	2%	1.9%
Deferred Prosecution	25	8%	-
Dismissed	216	71%	52.8%
Amended	3	1%	-



Reasons for Dismissal Detail	
Statute and Procedural Issues	10
6-Month Rule	9
Trial Scheduling	1
Initial DWI Investigation Issues	25
Jurisdiction ⁷	10
Field Sobriety Test Issue	1
Probable Cause	4
Illegal Stop	10
Evidentiary Issues	88
BAC below .08	2
Proof of Defendant Driving	2
Blood Test	3
Essential Witness Unavailable	5
Officer No Longer with Agency	15
Suppression/Exclusion of Testimony	7
Insufficient Evidence	32
Prosecutor Failure to Appear	4
Officer Failure to Appear	15
Officer Failure to Appear PTI	1
Pending Further Investigation	2
Defendant Found Incompetent or Deceased	6
Defendant in Serious Duress	1
Defendant in ICE Custody	1
Result of Plea Deal	8
Hold Open Agreement*	63
Transfer to District Court	2
Unknown Reason for Dismissal	12

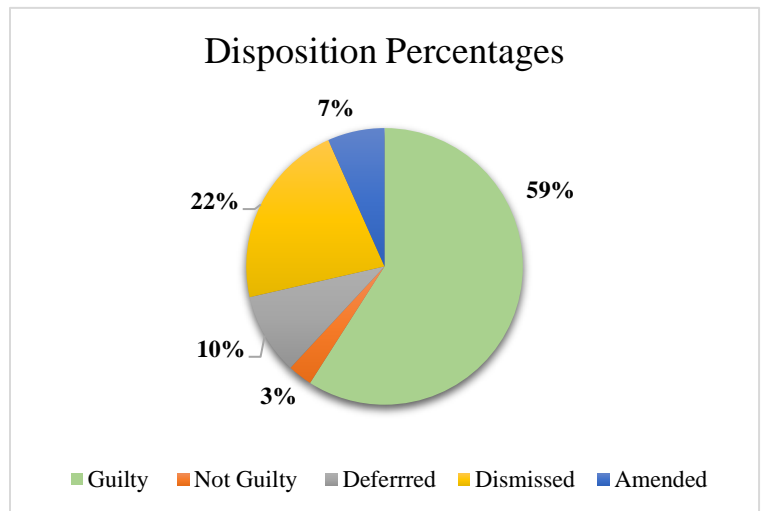
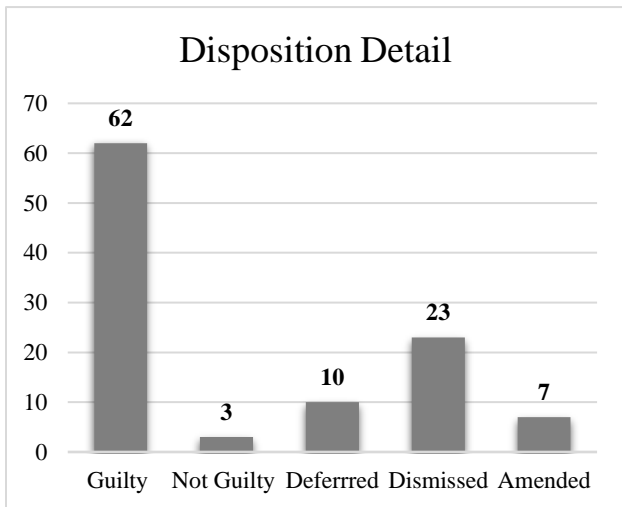
*A Hold Open Agreement is a pre-prosecution arrangement that states if a Defendant completes a victim impact panel, community service and DWI school, their case will get dismissed.



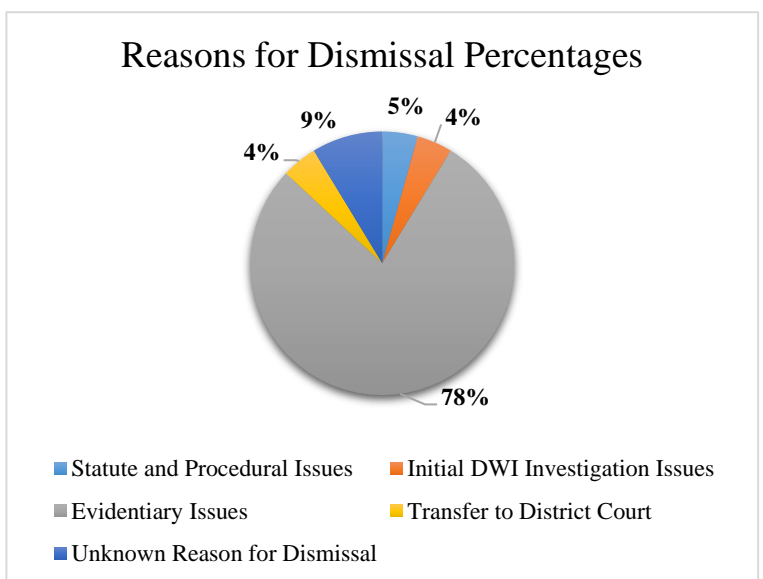
RIO ARriba COUNTY

July 2017-July 2018

	-Actual	-Total %	- AOC %
Cases Monitored	134	-	-
Adjudicated	105	-	209
Guilty	62	59%	53.6%
Not Guilty	3	3%	0.5%
Deferred Prosecution	10	10%	-
Dismissed	23	22%	45.9%
Amended	7	7%	-



Reasons for Dismissal Detail	
Statute and Procedural Issues	1
6-Month Rule	1
Initial DWI Investigation Issues	1
Jurisdiction	1
Evidentiary Issues	18
Missing Blood Test Results	4
Missing Pre-Trial Interview	2
Suppression/Exclusion of Officer Testimony	2
Insufficient Evidence	8
Officer FTA PTI	2
Transfer to District Court	1
Unknown Reason for Dismissal	2

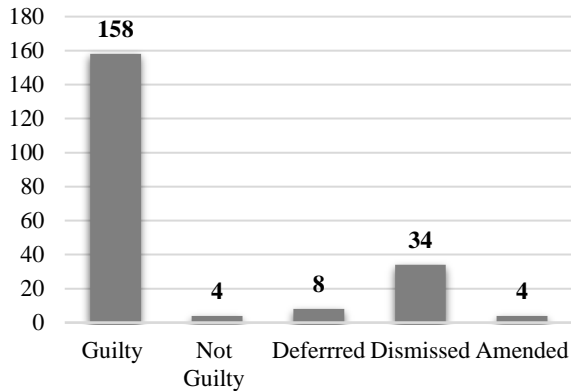


SAN JUAN COUNTY

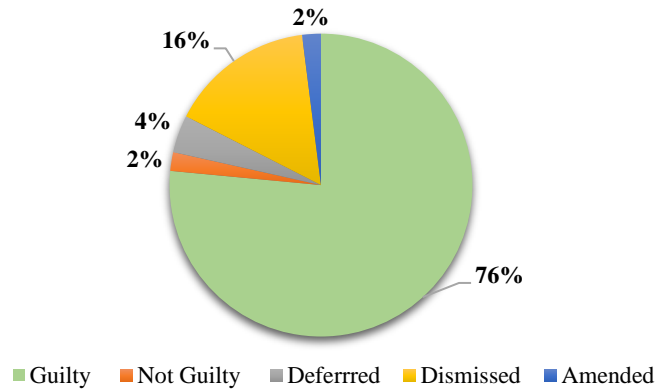
July 2017-July 2018

	Actual	Total %	AOC %
Cases Monitored	253	-	-
Adjudicated	208	-	523
Guilty	158	76%	70.6%
Not Guilty	4	2%	1.9%
Deferred Prosecution	8	4%	-
Dismissed	34	16%	27.5%
Amended	4	2%	-

Disposition Detail



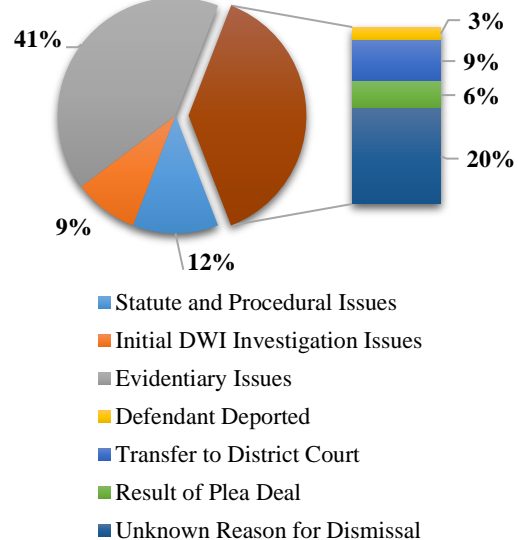
Disposition Percentages



Reasons for Dismissal Detail

Statute and Procedural Issues	4
6-Month Rule	2
Probable Cause	2
Initial DWI Investigation Issues	3
Jurisdiction	1
Proof Defendant was driving	2
Evidentiary Issues	14
Blood Test	3
Officer No Longer w/ Agency	5
Officer In Custody	4
Insufficient Evidence	2
Defendant Deported	1
Transfer to District Court	3
Result of Plea Deal	2
Unknown Reason for Dismissal	7

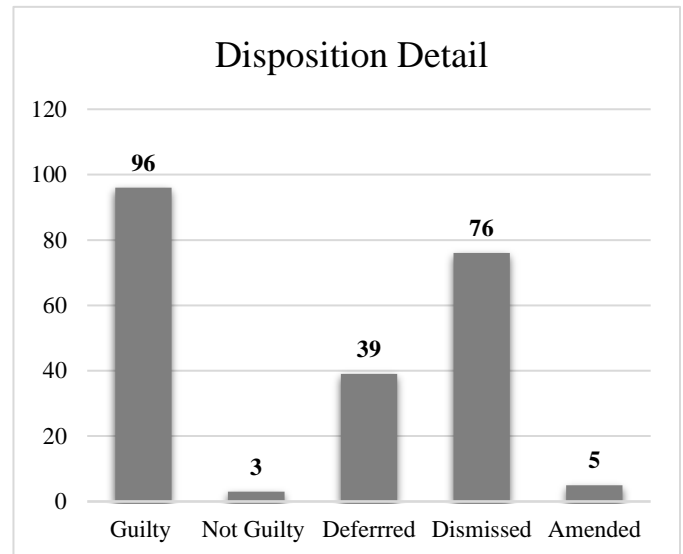
Reasons for Dismissal Percentages



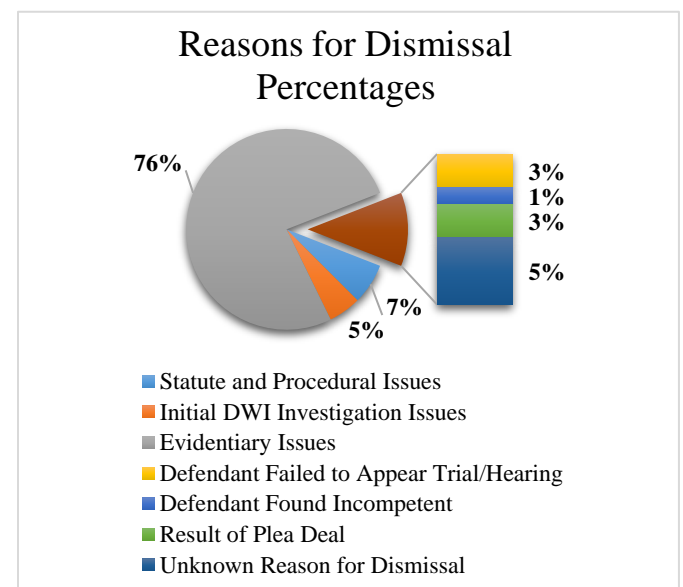
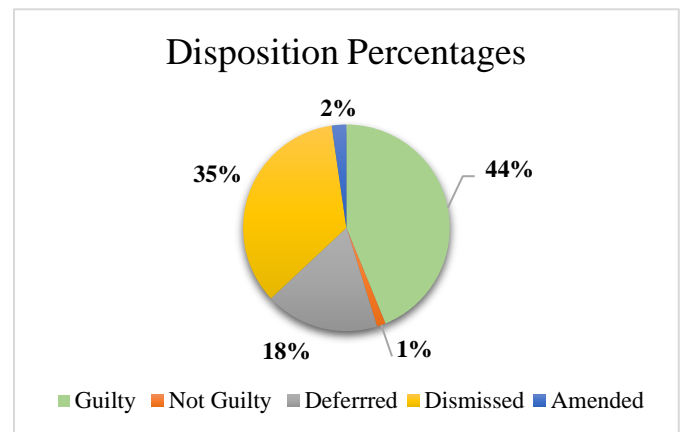
SANTA FE COUNTY

July 2017-July 2018

	-Actual	-Total %	-AOC %
Cases Monitored	296	-	-
Adjudicated	219	-	554
Guilty	96	44%	49.3%
Not Guilty	3	1%	0.7%
Deferred Prosecution	39	18%	-
Dismissed	76	35%	49.8%
Amended	5	2%	-



Reasons for Dismissal Detail	
Statute and Procedural Issues	5
6-Month Rule	1
Officer Not on Witness List	3
No Witness List Filed	1
Initial DWI Investigation Issues	4
No Probable Cause for Stop	3
No Reasonable Suspicion	1
Evidentiary Issues	58
BAC Below .08	1
Blood Test	4
Officer FTA Trial	2
Officer FTA PTI	3
Civilian Witness FTA Trial	1
Missing Officer PTI	7
Insufficient Evidence	32
Suppression/Exclusion of Officer Testimony	8
Defendant Failed to Appear Trial/Hearing	2
Defendant Found Incompetent	1
Result of Plea Deal	2
Unknown Reason for Dismissal	4



KEY FINDINGS AND RECOMMENDATIONS:

It is, again, important to note that the Court Monitoring Project randomly monitors only a sample of the overall DWI cases that pass through the courts.

The year two results reveal similar prosecution obstacles that were found in year one. It was noted that evidence often does not successfully get received by the District Attorneys' offices in its entirety and on time. District Attorneys site that complete discovery is crucial for the successful prosecution of a case. A streamlined, integrated discovery sharing process that applies to all enforcement agencies within a given county, may help to decrease the number of dismissals due to incomplete police-related discovery.

Another noted pressing reason for dismissals is a lack of completed scheduled pre-trial interviews. Reasons often cited for such an occurrence are officers not being able to attend the interview and/or not responding to requests for scheduling the interview, often resulting in a dismissal due to failure to appear.

Recommendations from the Year One Report are applicable to this reporting cycle as well, including increasing support staff and paralegals in the District Attorney offices to oversee the successful collection of all discovery and the facilitation of pre-trial interviews. Also, increasing the amount of attorneys in the District Attorney offices could decrease the amount of cases per person and allow for greater oversight.

Another noted significant contributor to the dismissal rate is hold open agreements. A hold open agreement is the opportunity for a Defendant's case to be dismissed if they attend a Victim Impact Panel, complete community service and attend DWI school. MADD encourages cases to be heard on their merits, to not be dismissed prematurely during pre-trial stages, and for sanctions of convictions pursuant to NM Stat § 66-8-102 to conform to statutory requirements. Such statutory requirements stipulate to the installation of an ignition interlock in all vehicles driven by an offender as part of the mandatory minimum sanctions, the usage of which MADD considers to be crucial for ensuring sobriety when driving by the convicted offender.

GLOSSARY

¹ Total percentages may not equal 100% due to rounding.

² If a case disposition is Guilty with a First Offender Track or Deferred Prosecution, the Defendant has the opportunity for their case to be dismissed in the court record if they complete the sanctions ordered by the Court. However, the charge will be classified in their MVD record as guilty and can be used as a prior DWI conviction if the Defendant were to get charged with a DWI in the future. AOC Deferred Prosecution dispositions were reported as Dismissed or Guilty depending on the probation outcome of the Defendant. This may account for the disparity between the AOC and Court Monitoring guilty and dismissed statistics.

³ Amended dispositions reflect cases in which the DWI charge was dismissed and amended to either a Careless Driving or Reckless Driving charge.

⁴ 30-Day Rule: within thirty (30) days after arraignment or the date of filing of a waiver of arraignment, the prosecution shall disclose and make available to the defendant for inspection, copying, and photographing any records, papers, documents, statements, notes, and recordings made by or of witnesses or other tangible evidence in the prosecution's possession, custody, and control that are material to the preparation of the defense or are intended for use by the prosecution at the trial or were obtained from or belong to the defendant.

⁵ 6-Month Rule: A Criminal Trial shall be commenced within (182) days.

⁶ Officer Failure to Appear Due to FMLA, Training or Illness: Officer failure to appear due to Family Medical Leave Act, work sanctioned training or an illness.

⁷ Jurisdiction: District Attorneys can prosecute cases in state, city or county land. If a crime occurs outside of that jurisdiction, the District Attorney cannot prosecute the case.

APPENDIX

Court Monitoring Form:

Court Monitoring Quick Sheet p.1

Information

State _____

Case # _____

Court House _____

Date DUI issued _____

Court Monitor _____

Case start date _____

Present in court? _____

Case status open or closed? _____

Case closed date _____

Interpreter needed? _____

Interpreter present? _____

Arresting officer? _____

He/she present? _____

What language? _____

Prosecutor _____

Prosecutor change? _____

Judge _____

Judge changed? _____

Defense attorney _____

Defense attorney type? _____

Defendant _____

Defendant Age _____

Defense attorney change? _____

Defendant Gender _____

Defendant Race/
Ethnicity _____

Court Monitoring
Quick Sheet p.2

Charge Information

Alcohol related? _____

Drug related? _____

BAC _____

Prescription drug related? _____

BAC obtained by _____

Child present in the car? _____

BAC ammended? _____

Classification of charge _____
(class "c" misdemeanor etc.)

If yes, new BAC _____

Previous DWI convictions? _____

Initial plea _____

Currently on probation or
parole? _____

Crash related? _____

Criminal charge _____
(felony or misdemeanor)

Property damage? _____

Personal injury? _____

Court Monitoring
Quick Sheet p.3

Sanctions & Sentence

Disposition _____
(guilty, not guilty,
deferred, etc.)

Did judge agree to plea? _____

If not, explain _____

If ammended,
to what? _____

If ammended to
lesser charge
what type? _____

Mistrial? Reasons? _____

Other disposition? _____

Dismissed or rescinded? _____

Reasons? _____

New case number? _____

Deferred prosecution? _____

Reasons? _____

If ammended to
felony, what type? _____

Classification of
new charge if
changed _____

Another hearing scheduled? _____

Next hearing date _____

Minimum sentencing
guidelines met? _____

Court Monitoring
Quick Sheet p.4

Efficiency of Court

Could you hear the
proceedings? _____

Was the hearing delayed? _____

No? Reasons? _____

Reason for delay _____

Other notes:

Types of Proceedings

Proceedings _____

Case # _____

If other, please
describe _____

Date of Proceeding _____

Other Charges

Other Charges _____

Case # _____

Disposition of
charges _____

If other, please
describe _____

Date other charges
dropped _____

Sanctions

Sanction _____

Amount _____

Licensing restriction _____

Time (hours) _____

Other sanctions
not listed _____

Time (day) _____

Time (month) _____

Case # _____

Logged into data
base? _____

Date logged? _____

By whom? _____